



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDP-DR, FFT

This matter proceeded by way of an *ex parte* Direct Request Proceeding pursuant to section 38.1 of the *Residential Tenancy Act* (the “Act”) and dealt with an Application for Dispute Resolution filed by the Tenants for a monetary order for the return of a pet damage deposit and for recovery of the filing fee.

In an *ex parte* Direct Request Proceeding, the onus is on the tenant to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the tenant cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

In this type of matter, the Tenants must prove they served the Landlord with the Notice of Dispute Resolution Proceeding with all the required inclusions as per section 89 of the *Act*.

Policy Guideline #49 states:

Serving of the Notice of Dispute Resolution Proceeding package

Once the package is served, the tenant must complete and submit a Proof of Service Tenant’s Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding. Once the package is deemed served, the Branch can adjudicate the dispute.

[Reproduced as written.]

The language in Policy Guideline #49 is mandatory.

I have examined the documents submitted by the Tenants and find that they do not include a Proof of Service Notice of Direct Request Proceeding as required under Policy Guideline #49. This form would include a statement establishing service of the Notice of Dispute Resolution Proceeding and supporting documents on the Landlord. Without this accompanying statement, I find that I am not able to confirm what documents may have been served on the Landlord in accordance with the *Act* and Policy Guideline #49.

For the above reasons, I order that the Tenants' request for a monetary order for the return of the pet damage deposit is dismissed with leave to reapply.

As the Tenants have not been successful, I find that the Tenants' request to recover the filing fee is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2021

Residential Tenancy Branch